

EXHIBIT D

6:21-CV-00948

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Case # 21DCV326510 - Rosa Culp vs. Walmart Inc. (Starritt-Burnett, Cari)

Case Information

Location	Bell County - 169th District Court
Date Filed	9/3/2021 12:49 PM
Case Number	21DCV326510
Case Description	Rosa Culp vs. Walmart Inc.
Assigned to Judge	Starritt-Burnett, Cari
Attorney	Brett Payne
Firm Name	Walters, Balido & Crain, LLP
Filed By	Deborah Marra
Filer Type	Not Applicable

Fees

Convenience Fee	\$0.00
Total Court Case Fees	\$0.00
Total Court Party Fees	\$0.00
Total Court Filing Fees	\$0.00
Total Court Service Fees	\$0.00
Total Filing & Service Fees	\$0.00
Total Provider Service Fees	\$0.00
Total Provider Tax Fees	\$0.00
Total Taxes (for non-court fees)	\$0.00
Grand Total	\$0.00

Payment

Account Name	AMEX-3018
Transaction Amount	\$41.16
Transaction Response	
Transaction ID	83643503
Order #	056956056-0

Answer/Response

Filing Type	EFileAndServe
Filing Code	Answer/Response
Motion Code	
Filing Description	Defendant's Original Answer
Reference Number	1454-94420

Comments

Status Under Review

Fees

Court Fee \$0.00

Service Fee \$0.00

Optional Services

Jury Fee \$0.00

Documents

Lead Document DOA - Culp-WM.pdf [Original]

eService Details

Name/Email	Firm	Service Method	Status	Served	Date/Time Opened
Tim Schurmann tschurmann@slocumblaw.com	Slocumb Law Firm	EServe	Sent	Yes	Not Opened
Brett Hermes Payne PayneVFax@wbclawfirm.com		EServe	Sent	Yes	9/7/2021 3:38 PM
Brett Hermes Payne PayneVFax@wbclawfirm.com		EServe	Sent	Yes	9/7/2021 3:38 PM
Tim Schurmann tschurmann@slocumblaw.com	Slocumb Law Firm	EServe	Sent	Yes	Not Opened

Request

Filing Type EFileAndServe

Filing Code Request

Motion Code

Filing Description Letter to the Clerk - Holiday Request

Reference Number 1454-94420

Comments

Status Under Review

Fees

Court Fee \$0.00

Service Fee \$0.00

Documents

Lead Document Ltr to Clerk - Holiday Request - Culp.pdf [Original]

eService Details

Name/Email	Firm	Service Method	Status	Served	Date/Time Opened
Tim Schurmann tschurmann@slocumblaw.com	Slocumb Law Firm	EServe	Sent	Yes	Not Opened
Brett Hermes Payne PayneVFax@wbclawfirm.com		EServe	Sent	Yes	9/7/2021 3:38 PM
Brett Hermes Payne PayneVFax@wbclawfirm.com		EServe	Sent	Yes	9/7/2021 3:38 PM
Tim Schurmann tschurmann@slocumblaw.com	Slocumb Law Firm	EServe	Sent	Yes	Not Opened

CAUSE NO. 21DCV326510

ROSA CULP,	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
vs.	§	BELL COUNTY, TEXAS
	§	
WAL-MART, INC.,	§	
Defendant.	§	169TH JUDICIAL DISTRICT

DEFENDANT WAL-MART, INC.'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant Wal-Mart, Inc. ("Defendant") files this Original Answer to Plaintiff's Original Petition ("Petition"), and in support thereof, would respectfully show the Court the following:

I. General Denial

1. Under Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every allegation made against Defendant in Plaintiff's Petition.

II. Affirmative Defenses

2. Defendant asserts the doctrine of comparative causation, which may bar any recovery by Plaintiff, or may in the alternative reduce the amount of recovery by Plaintiff based on the Plaintiff's own percentage of fault.

3. Defendant asserts the affirmative defense of contributory negligence. The negligence of Plaintiff caused or contributed to Plaintiff's injuries so that the claims are barred or, in the alternative, must be reduced in accordance with the relative degree of Plaintiff's own negligence. Defendant requests the trier of fact to determine Plaintiff's liability and percentage of responsibility pursuant to Texas Civil Practice & Remedies Code section 33.003.

4. Defendant is entitled to all caps and limitations on damages pursuant to the Texas Civil Practice & Remedies Code.

5. Defendant is not responsible for any expenses or damages allegedly incurred by Plaintiff due to Plaintiff's own acts, conduct, negligence and/or failure to exercise reasonable care in mitigating Plaintiff's damages.

6. Plaintiff's own negligent acts were more than 50% of the proximate cause of Plaintiff's injuries. Under Chapter 33 of the Texas Civil Practice and Remedies Code, Plaintiff is not entitled to the relief requested in the Petition. To the extent that Plaintiff's proportionate responsibility is less than 50%, Plaintiff's damages must be reduced by the percentage to which Plaintiff is responsible for their injuries.

7. Defendant alleges that Plaintiff's injuries and/or damages were caused by an intervening event for which Defendant has no liability.

8. To the extent that Plaintiff's medical expenses exceed the amount actually paid on Plaintiff's behalf to Plaintiff's medical providers, Defendant asserts the statutory defense set forth in Section 41.0105 of the Texas Civil Practice and Remedies Code. Thus, recovery of Plaintiff's medical or health care expenses are limited to the amount actually paid or incurred by or on behalf of Plaintiff.

9. To the extent that any health care provider has written off its charges for medical care for Plaintiff and/or paid charges for medical care in connection with the injuries underlying this suit, and in the unlikely event that Plaintiff obtains a final judgment against Defendant, Defendant is entitled to a credit and/or offset for the total amount of such write-offs and/or expenditures incurred and paid by others and accruing to Plaintiff pursuant to Texas Civil Practice & Remedies Code Section 41.0105.

10. Defendant is entitled to a credit or offset equal to the amount of any and all sums that the Plaintiff has received, or may hereinafter receive, by way of settlement with any person or

party. Alternatively, Defendant contends that it is entitled to a proportionate reduction of any damages found against it based upon the percentage of negligence attributable to the settling tortfeasor, cross claimant, designated third party, or other party to this case.

11. Plaintiff's claims for pre-judgment interest are limited by the dates and amounts set forth in Section 304.104 of the Texas Finance Code and Section 41.007 of the Texas Civil Practice & Remedies Code.

12. Defendant alleges that the injuries and damages alleged by Plaintiff may be due to Plaintiff's own negligence and recklessness in that Plaintiff's failure to exercise ordinary care proximately caused, in whole or in part, the alleged injuries and damages complained of by Plaintiff. Plaintiff's acts and omissions, whether taken together or separately, may be the sole proximate cause, or a proximate cause of the injuries and damages Plaintiff has alleged in this lawsuit. Any recovery by Plaintiff is therefore barred, or alternatively should be reduced in accordance with the applicable law.

13. The injuries pled by Plaintiff may have been caused, in whole or in part, by superseding and/or intervening causes, including preexisting conditions and/or injuries and subsequently occurring injuries and/or conditions that were not Defendant's own creation.

14. Defendant states that the alleged occurrence, incident, event or accident underlying this suit may have been caused by the negligence of a third party or parties over whom Defendant had no control and said negligence was the proximate cause, or in the alternative, the sole proximate cause of the occurrence, incident, event or accident underlying this suit and of the alleged damages to Plaintiff.

III. Jury Demand

15. Defendant hereby exercises Defendant's rights to demand a trial by jury under Rule 216 of the Texas Rules of Civil Procedure on all issues triable by a jury.

IV. Prayer

FOR THESE REASONS, Defendant respectfully prays that the Court enter a judgment that:

1. Dismisses all claims against Defendant and orders that Plaintiff takes nothing by reason of Plaintiff's allegations against Defendant.
2. Orders that Defendant, recovers all costs incurred in defense of Plaintiff's claims, and that Defendant's judgment against Plaintiff include the following:
 - a. Reasonable attorneys' fees;
 - b. Costs of suit; and
 - c. Such other and further relief, general and special, at law or in equity, to which Defendant may be justly entitled.

Respectfully submitted,

WALTERS, BALIDO & CRAIN, L.L.P.

BY:


BRETT H. PAYNE - 00791417

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9020 N. Capital of Texas Hwy

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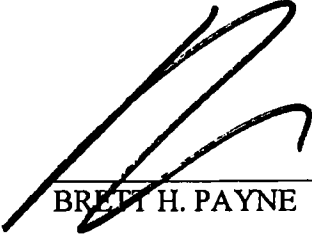
Email: paynevfax@wbclawfirm.com

**ATTORNEY FOR DEFENDANT
WAL-MART, INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was delivered via
[X] electronic service [] hand delivery [] facsimile transmission [] regular United States Mail
[] certified mail, return receipt requested, postage prepaid, as required by law, on the 3rd day of
September, 2021 to the following parties or attorneys of record:

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SLOCUMB LAW FIRM, PLLC
1910 Pacific Avenue, Suite 15700
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Fax: 888-853-2247
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BRETT H. PAYNE



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Service of Documents:

PayneEDocsNotifications@wbclawfirm.com

Phone: (512) 472-9000

Fax: (512) 472-9002

September 3, 2021

Via E Filing

169th Judicial District Court
The Honorable Cari Starritt-Burnett
P.O. Box 324
1201 Huey Road
Belton, Texas 76513
Phone: (254) 933-5265
Fax: (254) 933-5933

Re: Cause No.: 21DCV326510; *Rosa Culp v. Wal-Mart, Inc.*
Our File No.: 1454-94420

Dear Clerk:

Please allow this letter to serve as a formal request regarding scheduling of trial in regard to the above referenced matter. Defendant is a retail store. During the holiday season, between November 15, 2021 and January 10, 2022, almost all store employees face rigorous work schedules to meet customer demand. Historically, it has proven extremely difficult for them to appear for jury trial as witnesses or store representatives. Accordingly, Defendant would request that no trials be scheduled during that time period.

Thank you for your courtesy and assistance with this request.

Very truly yours,

BRETT H. PAYNE

BHP/dm
3655440

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